

**CITY OF KUNA
PLANNING & ZONING COMMISSION**

**MEETING MINUTES
Tuesday, January 30, 2018**

PZ COMMISSION MEMBER	PRESENT	CITY STAFF PRESENT:	PRESENT
Chairman Lee Young	X	Wendy Howell, Planning Director	X
Commissioner Dana Hennis	X	Troy Behunin, Senior Planner	Absent
Commissioner Cathy Gealy	X	Jace Hellman, Planner II	X
Commissioner Stephen Damron	Absent		
Commissioner John Laraway	X		

6:00 pm – COMMISSION MEETING & PUBLIC HEARING

Chairman Young called the meeting to order at **6:00 pm**.

Call to Order and Roll Call

1. CONSENT AGENDA

2. OLD BUSINESS

- a. **17-06-SUP (Special Use Permit) & 17-19-DR (Design Review);** On behalf of Victor Clark, Troy Lachcik with ALC Architecture requests Special Use Permit (SUP) and Design Review (DR) approval to construct one triplex of townhouses on the north end of an approximately 0.51-acre lot. The site is located at 1394 W Park Avenue, Kuna, ID 83634. – **Tabled from January 23, 2018.**

Staff presented a map showing multi-story structures within the vicinity of the subject site to the Commission; Staff entered this exhibit into the record as Exhibit D7. Staff presented a site photo to the Commission; Staff entered this exhibit into the record as Exhibit D8. Staff presented a site photo to the Commission; Staff entered this exhibit into the record as Exhibit D9. Staff presented a document showing square footage of other recently approved multifamily to the Commission; Staff entered this exhibit into the record as Exhibit D10.

Richard Roats: Richard Roats, City attorney, procedurally, if you would have a motion to reopen the public hearing, based on the new exhibits presented by staff.

Commissioner Gealy motions to reopen the public hearing; Commissioner Hennis Seconds, all aye and motion carried 3-0.

Richard Roats: Good evening Chairman, Commissioners. For the record Richard Roats, City Attorney. Staff indicated at the end of the last meeting several issues were raised regarding the two-story proposal for the triplex and the request from the public to deny the project based on the two stories. Staff and I went out to the sight today as indicated in the exhibit D7, shows the location of the site outlined in the red box, and its distance to multi-story buildings within the vicinity. On the corner of Cedar and Owyhee St there is a two-story home there, that is at 280 feet. Kitty corner to the property line is exhibited in D8 it shows a two-story home that is adjacent to the home. There is facility that appears to be a triplex facility and then directly behind it also a duplex facility, and then at 235 feet which is exhibit D9, and that is the City Water tower there. I understand that the concern raised at the last hearing was the height of the project being two story, and inconsistent with the neighborhood. My view of that neighborhood, and staffs view was that it was mix of commercial,

CITY OF KUNA PLANNING & ZONING COMMISSION

MEETING MINUTES Tuesday, January 30, 2018

residential and some multi-story structures, as indicated in the exhibits. I also had staff prepare for you the previous approvals by the City for multifamily, as exhibited in D10. It shows the average square footage for the Crimson Point Villas as being 1,158.64 square feet. For Journey's End #2 is 1,100.5 and Tomorrow Subdivision is 1,142 square feet. I understand this project is approximately 1,800 square feet, 3-bedroom, 2 baths, which is providing multifamily rental units of a larger variety. My concern is that if we deny this project we potentially violate Fair Housing. We have allowed multifamily housing in this area, two stories or more, so it is not an area we have zoned for single family, single story units. It would be inconsistent with our comprehensive plan and zoning to deny it, and again the bigger concern would be a potential violation of fair housing. We don't get to limit square footage for these types of things. It is what the market wants, and it would be consistent with what we have allowed, I will stand for questions. **C/Young:** Any questions for the City Attorney at this point? **C/Gealy:** No questions. **C/Young:** Before we get back to your discussion, since we have opened up the public hearing, due to the new exhibits, that does open up the possibility for public testimony. I do have the sign in sheets here. Does the applicant have anything to add at this point? **Troy Lachcik:** With ALC Architecture representing Victor Clark. I want to thank staff and legal for going out and observing some of the nearby sights. We have read through the staff report and we would be excited to see the project go through, and like I said we are happy to comply with everything in the staff report. **C/Young:** Okay, thank you. Then seeing none signed up in favor or neutral, I have Glenda Sanders signed up to speak in the opposition Column. **Glenda Sanders:** Glenda Sanders, 260 Cedar avenue, I wasn't really prepared to say anything tonight, and I don't really know why the meeting was stopped last week. About the two-story structure you can see how monstrous this thing is compared to two buildings around it, and that is why we are hoping you deny this, plus the other 20 people who came to last weeks hearing in opposition. We just don't think it is right place for a structure that size, and with all of the dangers I talked about last time, with the creek and railroad, narrow streets and no sidewalks, I don't understand why you have to approve just because you want to. Having a water tower as a multilevel structure for comparison to what is around is not a great comparison. There is no one's upstairs windows looking down on people in the water tower, so that is all I have to say. **C/Young:** Okay, thank you and next I have listed Jeff Marler. **Jeff Marler:** 260 Cedar Avenue, like my wife I wasn't really prepared. We talked last time we were here and brought up the points and several issues that were major concerns and issues of the neighbors in that areas, I would agree that comparing to a water tank is not an appropriate comparison. I am not aware of any multifamily or multistory homes on Cedar or Park, I think the ones in the picture were on Owyhee. There are none on Cedar or Park that I am aware of with the exception of a single-family home on Owyhee and Cedar, that is a two-story home, but it is not multifamily, and it is not the typical home in that area. So, while I would comment that it looks like a beautiful structure, but I will reiterate that this small half-acre parcel is not the right place for that, and there are other areas that are growing in Kuna where it would be a much better fit. It is just going to stick out on Cedar and Park, especially since Cedar is not really a road, it is considered an alley way by ACHD. There is just a lot of safety and concerns with the extra traffic going up and down that road. It is just not the right place for that. **C/Young:** Okay, thank you and next I have listed Paula Grigg. **Paula Grigg:** I live at 1350 W Avalon. I moved here in 1986 before the first influx of development. I worked on the south side of tracks delivery mail since 1989, and I delivered all the way, route one, route two, and route four. I have seen a lot with all of the new subdivisions trying to build were there weren't proper permits of surveys done before. The codes were different when this side of town developed. There is a certain feel when you cross the south side of the tracks, that is what makes side appealing to us. It is very rural. The majority of houses are owner occupied. There are only three apartments, and two of them are right next to each other, and they are at the east side of Owyhee Street. The other one is one School St and they are next to commercial. There are two duplexes on Owyhee Street, and they are right behind my house. They have been there for a long time. To the east of this proposed site is 1960s modified trailers with several out building and to the west is 1940s home. This beautiful, but massive apartment will be overlooking everybody's backyards,

CITY OF KUNA

PLANNING & ZONING COMMISSION

MEETING MINUTES

Tuesday, January 30, 2018

we all know people have trouble controlling their guests, people want to park close to the entrances and if there is driveway they will park in it, or block it, that is why this shared driveway will be hard to enforce, especially with three separate families of renters. This is just the wrong place for this apartment complex. **C/Young:** Thank you, next I have Katrina Cottrell. **Katrina Cottrell:** 215 Cedar Avenue. So, I am here to talk because in the City regulations for this, it says it is not supposed to disrupt the ways of life for the individuals who live there. Obviously, this will disrupt the way we live and that is why we are there. Look at how many windows are in that apartment, on the bottom, and on the top. Glenda and Jeff have a swimming pool that is quite large in there back yard, what is that going to do to their quality of life. The whole point of having neighbors is to be friendly, not overrun by them. This is going to overrun everybody on our side of town. We are very comfortable and quite people, we don't make a lot of noise, and we are very worried about what this is going to do to us. We are close to retirement, and this all of this area is undeveloped. Our properties are all so crazy on the plot plan, nobodies plot is correct. My husband and I own half of the house next to us, but because of squatter's rights that is no longer our property, that is theirs. We are just asking, if you are going to continue, and you are going to allow this, why don't we try for smaller single level apartments, we don't need a monstrosity, we don't need to have apartments at all. It is fun to have a single-family dwelling, that is what all of the rest of us have. We don't know why this was commercial or made R-6 because all of the others are not, we are all single families, we don't need something that is going to be staring down at us, kids, boys, girls, people outside swimming, it is not going to be very nice for any of us. SO, we ask of you to please consider not allowing it. **C/Hennis:** I have one question for her, you indicated that your neighbors Glenda and Jeff have a swimming pool but it is not indicated anywhere on here. **Katrina Cottrell:** That is because they take it down every year, no one around here has an inground pool. **C/Hennis:** But they can move it around? **Katrina Cottrell:** No, their place is actually very small, and they have this much room for it. It can not go in the front because they have this great big tree. **C/Hennis:** Okay, I was just curious as to where it was. **Katrina Cottrell:** They just take it down every year. **C/Hennis:** Okay, thank you. **C/Young:** Okay, next we have Robert Cottrell. **Robert Cottrell:** I live at 215 Cedar, and I was ill-prepared for this, I kind of thought this was done, at three weeks of this. There again we have these people who are wanting to do this haven't addressed the irrigation, they haven't talked about the little tiny dink road that they are driving down. Like Jeff and Glenda said, the two-stories that are around us, are ways away from us, there is none of that around us so. I really don't know what to say, I am still pretty upset about the whole thing, and I can't believe this is even proposed to be stuck in there. I don't know if you people have driven over there and looked at the site, I think you would laugh. I realize this guy has squeaked under the fence on a technicality, and these people were saying we need to have this so everything will be kosher, and some of things, its like they can be done, but they shouldn't be done, that is really all I have to say. **C/Young:** That is all I have listed, that signed up, that wanted to testify, is there anything the applicant has to say, or are you good for now? **Troy Lachcik:** ALC, representing Victor Clark, I spoke in depth with the client about the conversations that were had at the last hearing, and he is very willing to work with the neighbors on everything that we discussed from fencing to shared drive and cross access and things like that. I have also heard a lot about scale, and I am not sure that moving away from a two-story town house situation is something the client would like to do. I do think there are ways we could scale down the structure if that is the overall concern that I keep hearing, not sure if there is a way to go about doing that, whether we work with the planners and the commissioners, and maybe we look at ways to make that structure more in scale with something the neighbors would be happy with. I know that in previous projects, it has been relooked at, at the staff level, so we maybe got a conditional approval, on the condition that we work with staff to come up with something that might work better for that lot and that property, so we are willing to work with everything we have heard, and if the condition is truly that this is out of scale, then maybe there is a way that we could bring that into a scale to at least make some people happier and I am not sure if that is something you have done before we would be willing to consider something like that. **C/Young:** okay, thank you. With

CITY OF KUNA PLANNING & ZONING COMMISSION

MEETING MINUTES Tuesday, January 30, 2018

that I will close the public testimony at 6:27 and that brings us back to our discussion where we were last week. I think that the applicant's willingness to compromise with a little bit of scale is good, and I know they are willing to enter into a cross access agreement to the west and it sounds like they are willing to work with either fencing or landscaping to help appease the direct neighbors. My biggest issue prior, was truly the mass of the building, but if there is some wiggle room with the applicant, and clearing up some of the other things stated, I think I would be in favor of the project, but I don't know what your thoughts are. **C/Hennis:** He is conforming to the zoning requirements which were set a long time ago, so we can't really dispute that. We are only talking three families, and these are not going to come out looking like apartments, they are going to come out looking like houses, they have a two-car garage on them. So, they are going to be squashed houses more than being an apartment building. That is going to provide at least two parking space off of the driveway, then they have the driveway, and then they have the shared driveway. So, they should be able to mitigate the parking issues that were said, and I think the applicant's willingness to help them situate the easement and that problem I think is very gracious, because that could be a real problem for the homeowner to the west, if somebody else were in charge of that parcel. I think if the applicant is willing to scale down quite a bit, I think that really unfortunately we are in position of what that site is zoned for. With the FHA, Fair Housing Act issues, the federal government kind of has us tied too. I think it is nice that it is going to look like residential homes instead of an apartment building, it is not going to be a cheap area. They are going to look for upscale renters, who are looking for homes, not apartments. What are your thoughts Cathy, because you had concerns last week? **C/Gealy:** I really don't understand why we had a public hearing at all. They have come in for a special use permit, and a design review, and we really can't make any modifications to it. I think it is a great opportunity for the neighbors to express their concerns, and I think the City has heard some of their concerns, but I am not sure their needs to be a public hearing for a special use permit for multifamily. **C/Laraway:** I am torn down the middle. Listening to the testimony and talking about the safety for the kids, I would have to assume that if they were that atrocious, you wouldn't live there, there is going to be existing safety hazards, and I don't if that is a reason to stop progress. The concerns about the two-story, and the other two-story structures that are in the vicinity, there seems to be quite a few, yes there are none on park, but again what you are asking us to do is deny this based strictly on this one little area of the neighborhood. I guess I look at the huge water tank, and I would think that would be a bigger eyesore than new apartments. These don't push me on way or another, but I don't have a reason to say no. They have dotted their I's and they are willing to acquiesce with irrigation, some design structure and setbacks, I don't have a reason to say no. **C/Young:** I think then some of the conditions we need to add, if approved is having conditioned cross access agreement, with the neighbor to the west and working with staff maybe to work with the scale of the overall structure, and whether it is fencing along the houses or landscape screening to give an additional buffer. **C/Gealy:** I think there was some concerns about the irrigation and the conditions include addressing staffs concerns about using potable water for irrigation. **C/Hennis:** Right, and they are going to have to work with the City Engineer and the Board in order to get that irrigation main situated. **C/Young:** I don't know if there are any other thoughts to add, or if not, I would stand for a motion then. **C/Gealy:** It seems that with the setbacks and the driveway, there wasn't any room for landscaping, is that correct? **C/Hennis:** No, they talked about being able to landscape within that easement, as a barrier at least to the east property, but to the west, that would be tough with the shared driveway. **C/Gealy:** Is that included in the conditions, the landscaping on the east. **C/Hennis:** That would be something we would want to specify. **C/Gealy:** Could we condition that they would work with staff to try to address some of the neighbors concerns in regards to privacy? **C/Hennis:** I don't know what solutions that would be. **C/Young:** I don't know if that would be in our realm, I think the fencing and screening is as far as we can go with that.

Commissioner Hennis Motions to approve case Nos. 17-06-SUP & 17-19-DR for the triplex on park with the conditions as stated in the staff report, and the additional conditions that the applicant shall work with the

CITY OF KUNA

PLANNING & ZONING COMMISSION

MEETING MINUTES

Tuesday, January 30, 2018

neighbor to the west with regards to the cross access agreement for the shared drive, The applicant shall work with staff in order to reduce the possible scale of the structure, the applicant shall install some fence and landscape screening to the east, and where appropriate with the adjacent neighbors, and the applicant shall have the City Engineer and the Boise Project Board of Control review the relocation of the irrigation main within the property; Commissioner Laraway Seconds, two Commissioners aye and one opposed and motion carried 2-1.

3. PUBLIC HEARING

- a. **18-01-ZOA (Zoning Ordinance Amendment);** An ordinance of the City Council for Kuna, Idaho striking in its entirety, Section 8 of Title 6, Chapter 3 titled easements and replacing a new section that provides for the location and width of City and public utilities easements, encroachment locations, vest the final determination of the location of easements with the City Engineer, restricts the placement of encroachments within the easement and responsibilities for damage, removal and disposal, allows for easement modifications for side yard easements located on phase boundaries and provides an effective date. – **Tabled from January 23, 2018.**

Richard Roats: For the record Richard Roats, up tonight is the proposed amendment for the ordinance for the easements. Currently existing in City Code, we have a requirement for 10-foot easements, what happens is developers bisect that on the property line, so it turns out to be a five-foot easement, backside and then front side aren't bisected by that. The big issue that we have is just clarity on the five feet, and five feet, which is really just a ten foot, and the developer could quite frankly put that ten feet on one side of the property line and nothing on the other, and there is nothing we could really say about it, it is just how they designed it with a five-foot easement. But we the City, at least since I have been here have been pretty firm about what we can and cannot allow in our easements. As we go out for some of these utility issues and we find there is a substantial structure in the easement, and that is prohibited. There has not been a lot of enforcement in the past, and there is a lack of clarity in what these easements are for. So, that is the big thing. The second big issue is that it requires a ten-foot around the phase boundary, and so phase one will come in with a ten-foot and then phase two will come in with a 10-foot, so essentially you have a 20-foot easement around phase boundaries. Around the perimeter of the subdivision that is not that big of a deal, but a lot of times these come in, in the middle of a subdivision where a phase stopped on a lot line, and then the next phase comes in, and all of the sudden you have a goofy configuration because you essentially have a 20-foot easement. So, we are trying to clean that part up, the rear and side is going to be for city only utilities. We don't have any of the other utilities in those easements, however what happens is if there is an adjustment or change, as you may have seen in the past to vacate those easements, those other utilities have to be apart of that vacation process, which is extremely time consuming and expensive. A good example is the old site of the ICCU because the configuration was changed a bit and sold. We are just trying to streamline this and as we get bigger we need to start enforcing these things that are in our easements. I will stand for any questions. **C/Young:** We will open up the public hearing at 6:45 and seeing no one to testify I will close it at 6:46, and that brings up our discussion, I think it makes sense and reads pretty straight forward. **C/Hennis:** It is pretty straight forward.

Commissioner Gealy Motions to recommend approval to City Council 18-01-ZOA, Easements, Commissioner Hennis Seconds, all aye and motion carried 3-0.

- b. **18-02-ZOA (Zoning Ordinance Amendment);** An ordinance of the City Council for Kuna, Idaho adding a new chapter, Chapter 18 to Title 5, Titled Private Roads that provides for the allowance of private roads in certain locations, sets forth construction and Design Standards, sets forth access and maintenance requirements, establishes gated road restrictions, provides for private alleys; Amending KCC 5-7-3 Planned Unit Development

CITY OF KUNA

PLANNING & ZONING COMMISSION

MEETING MINUTES

Tuesday, January 30, 2018

to reference Private Roads – KCC 5-18-1; Amending 6-3-3 –Planned Unit Development to strike that portion only allowing private roads in planned unit developments and adding the reference to KCC 5-18-1; Amending KCC 6-5-2- Planned Unit and Condominium Subdivisions to provide for private road standards constructed to Ada County Highway District Local Road Standards and review by the City Engineer; and providing an Effective Date. – Tabled from January 23, 2018.

Richard Roats: Good evening, Chairman, Commissioners, for the record Richard Roats. Before you is an amendment and significant addition to our zoning code for private roads. If you will remember they were only allowed with some ambiguity in planned unit developments, we have had a developer approach us wanting to do a higher end development with some private roads. We did not really have a code section for that, so that is what got us to start talking about this. We have gone through and added the proposed language, I think it makes sense for some of these developments to have that option. I will stand for any questions. **C/Young:** I had a question, it is just a text thing really, where private alley ways may be allowed it says a minimum travel lane of 16 feet, I am assuming that is width? **Richard Roats:** Yes, you are correct. **C/Young:** That is all I had, any other questions? Okay, we will open the public hearing at 6:49, and seeing none, we will close it at 6:50 and that comes to us. **C/Hennis:** I think it is a good idea to have that in here. Some of the nicer developments will tend to want to do this. **C/Young:** I agree, if some more PUD's or others come, sometimes I like it when they come it because it gives us more leeway to conditions things and play with open space. **C/Gealy:** Honestly, based upon the case that was just before us, there was an alleyway that was 16 feet wide and it became a road, and it is not wide enough to be a road, so if it is a private alleyway that is 16 feet what assurances do we have that it would become a road. **C/Hennis:** Well it is within a parcel, it is within private land, that would be my assumption, the problem with that one is that it in the roadway, it is not a private road. A private road is going to be in the midst of the development, and owned by the parcel. **C/Gealy:** Well, still we want to be safe for the people who are traveling along it, and who purchases property, and access for emergency vehicles. It just seems like a disservice was done to that neighborhood, by allowing that alleyway to become a road. **C/Young:** I think within the PUD, we are talking about private property versus public and the rest of streets as listed in ordinance have to conform to ACHD standards, and in any other jurisdiction an alleyway is an alleyway, I understand your point given the last case, but I think as general rule within the PUD ordinance and private property the widths given are within ACHD Standards. This ordinance dictates that these roads, are within ACHD's standards. **C/Hennis:** Correct me if I am wrong, but when you look at what is going on in these neighborhoods, you have each individual parcel around, that may be apart of a subdivision, those roads are already dedicated when the PUD is done, and ACHD takes control of those. This is a specifically a road within a parcel, a privately-owned piece of land, am I correct staff? **Richard Roats:** Yeah, so the contemplation on these is it is private property, it won't be dedicated to the public, that ACHD owns and controls. Here would be a good example an alley way between two building in commercial development, or an alley way between garages in a residential development. We wouldn't let it be a 16-foot alley way be dedicated to the public for public roads, that is why it is written in the ordinance proposed that they be built to ACHD standards, in the event that they do become dedicated to the public. **C/Laraway:** Clarification, correct me an alley way is not going to have a name, a private road is going to have a name. **Richard Roats:** yes, correct. **C/Gealy:** Would this also mean that ACHD would not review the transportation plan for the PUD, they would have nothing to approve. **Richard Roats:** Correct, this isn't just for PUDs, it is for any development. **C/Gealy:** Right, so any development could just do private roads and not submit to ACHD for review. **Richard Roats:** Correct, but these roads will be subject to the same standards that are required by ACHD, and inspected and approved by the City Engineer. **C/Gealy:** So, we are shifting that responsibility to the City Engineer. **Richard Roats:** That is correct. **C/Laraway:** This is for my clarification, ACHD will not maintain private roads correct, snow removal or anything like that? **Richard Roats:** Correct, as these come forward and the developer wants to put in the private roads, that will

**CITY OF KUNA
PLANNING & ZONING COMMISSION**

**MEETING MINUTES
Tuesday, January 30, 2018**

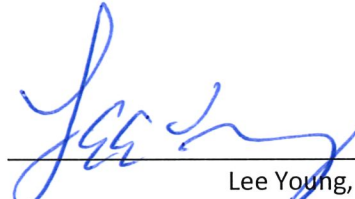
have to be in the CC&Rs. The thought is we want to do, but we want to do it right. We don't want to make it easy, and if there is potential to do that, we want them to know there is some work that will have to be done. **C/Gealy:** So, that will be on the plat, for people who want to move in to these homes so they know these are private roads. **Richard Roats:** Well they will be in the CC&Rs, indicating those roads will be maintained privately. We may try to get it on the plat, the CC&Rs they will get at closing, and any other subsequent closings they will the title company will give them those. **C/Laraway:** Does this apply to gated communities as well? **Richard Roats:** If they are gated, there is a high probability that they will be private roads as well. I don't believe ACHD will accept a gated road, so about 100% of the time it is going to fall into gated and private. **C/Gealy:** And the City Engineer is willing to accept this responsibility to review? **Richard Roats:** Yes, he will either do it, or we will contract out the inspections, and that cost will be taken by the developer. If the development meets the criteria, there will be a traffic study anyways, not just for the roads, but the overall development. **C/Gealy:** Will the City Staff, and the Commission have flexibility when reviewing, or will it be that is in the ordinance so we can't make any changes. **Richard Roats:** We made sure we wrote that in there.

Commissioner Hennis Motions to recommend approval to City Council 18-02-ZOA, Private Roads; Commissioner Laraway Seconds, all aye and motion carried 3-0.

b. COMMISSION REPORTS


c. ADJOURNMENT

Commissioner Gealy motions to adjourn; Commissioner Hennis Seconds, all aye and motion carried 3-0.



Lee Young, Chairman
Kuna Planning and Zoning Commission

ATTEST:



Wendy I. Howell, Planning and Zoning Director
Kuna Planning and Zoning Department